



3762
212

PTO/SB/21 (09-04)

Approved for use through 07/31/2006.

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

For the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number

10/537,983

Filing Date

June 8, 2005

First Named Inventor

Peter Osypka

Art Unit

3762

Examiner Name

Lenwood Faulcon, Jr.

Attorney Docket Number

SMB-PT143 (PC 04 234 M US)

ENCLOSURES (Check all that apply)

- | | | |
|---|---|---|
| <input type="checkbox"/> Fee Transmittal Form | <input type="checkbox"/> Drawing(s) | <input type="checkbox"/> After Allowance Communication to TC |
| <input type="checkbox"/> Fee Attached | <input type="checkbox"/> Licensing-related Papers | <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences |
| <input type="checkbox"/> Amendment/Reply | <input type="checkbox"/> Petition | <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) |
| <input type="checkbox"/> After Final | <input type="checkbox"/> Petition to Convert to a Provisional Application | <input type="checkbox"/> Proprietary Information |
| <input type="checkbox"/> Affidavits/declaration(s) | <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address | <input type="checkbox"/> Status Letter |
| <input type="checkbox"/> Extension of Time Request | <input type="checkbox"/> Terminal Disclaimer | <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): |
| <input type="checkbox"/> Express Abandonment Request | <input type="checkbox"/> Request for Refund | International Preliminary Report on Patentability |
| <input type="checkbox"/> Information Disclosure Statement | <input type="checkbox"/> CD, Number of CD(s) _____ | |
| | <input type="checkbox"/> Landscape Table on CD | |
| <input type="checkbox"/> Certified Copy of Priority Document(s) | <input type="text"/> Remarks | |
| <input type="checkbox"/> Reply to Missing Parts/Incomplete Application | | |
| <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53 | | |

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	VOLPE AND KOENIG, P.C.		
Signature			
Printed name	Randolph J. Huis		
Date	7/10/2006	Reg. No.	34,626

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature			
Typed or printed name	Randolph J. Huis	Date	7/10/2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the **PATENT APPLICATION** of:

Peter Osypka

Application No.: 10/537,983

Confirmation No.: 9424

Filed: June 8, 2005

For: PACEMAKER ELECTRODE ARRAY

Group: 3762

Examiner: Lenwood Faulcon, Jr.

Our File: SMB-PT143
(PC 04 234 M US)

Date: July 10, 2006

**COMMUNICATION RE
INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

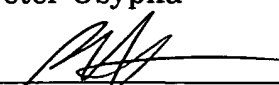
Sir:

Enclosed is the English language translation of the International Preliminary Report on Patentability related to the above-identified 35 U.S.C. §371 National Phase Application based on PCT/EP2004/004864.

Prompt examination of the present application is respectfully requested.

Respectfully submitted,

Peter Osypka

By 
Randolph J. Huis
Registration No. 34,626
(215) 568-6400

Volpe and Koenig, P.C.
United Plaza, Suite 1600
30 South 17th Street
Philadelphia, PA 19103
RJH/dmm

From the INTERNATIONAL BUREAU

PCT

NOTIFICATION OF TRANSMITTAL
OF COPIES OF TRANSLATION
OF THE INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY
(CHAPTER I OR CHAPTER II
OF THE PATENT COOPERATION TREATY)
(PCT Rules 44bis.3(c) and 72.2)

To:

MAUCHER, Wolfgang
Dreikönigstrasse 13
79102 Freiburg i. Br.
ALLEMAGNE

Date of mailing (day/month/year) 27 April 2006 (27.04.2006)	IMPORTANT NOTIFICATION
Applicant's or agent's file reference PC 04 234 M	
International application No. PCT/EP2004/004864	International filing date (day/month/year) 07 May 2004 (07.05.2004)
Applicant PETER OSYPKA STIFTUNG et al	

1. Transmittal of the translation to the applicant.



The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter I).



The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter II).

2. Transmittal of the copy of the translation to the designated or elected Offices.

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following designated or elected Offices requiring such translation:

None

The following designated or elected Offices, having waived the requirement for such a transmittal at this time, will receive copies of that translation from the International Bureau only upon their request:

AE, AG, AL, AM, AP, AT, AU, AZ, BA, BB, BG, BR, BW, BY, BZ, CA, CH, CN, CO, CR, CU, CZ, DE, DK, DM, DZ, EA, EC, EE, EG, EP, ES, FI, GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, JP, KE, KG, KP, KR, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MK, MN, MW, MX, MZ, NA, NI, NO, NZ, OA, OM, PG, PH, PL, PT, RO, RU, SC, SD, SE, SG, SK, SL, SY, TJ, TM, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, YU, ZA, ZM, ZW

3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).

The applicant is reminded that where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability (Chapter II).

It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned within the applicable time limit (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland	Authorized officer Agnes Wittmann-Regis
Facsimile No.+41 22 740 14 35	Facsimile No.+41 22 338 89 70

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference PC 04 234 M	FOR FURTHER ACTION		See item 4 below
International application No. PCT/EP2004/004864	International filing date (day/month/year) 07 May 2004 (07.05.2004)	Priority date (day/month/year) 13 May 2003 (13.05.2003)	
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237			
Applicant PETER OSYPKA STIFTUNG			

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).

2. This REPORT consists of a total of 6 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Box No. I | Basis of the report |
| <input checked="" type="checkbox"/> Box No. II | Priority |
| <input type="checkbox"/> Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input type="checkbox"/> Box No. IV | Lack of unity of invention |
| <input checked="" type="checkbox"/> Box No. V | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> Box No. VI | Certain documents cited |
| <input type="checkbox"/> Box No. VII | Certain defects in the international application |
| <input type="checkbox"/> Box No. VIII | Certain observations on the international application |

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis.2).

Date of issuance of this report
18 April 2006 (18.04.2006)

Authorized officer

Agnes Wittmann-Regis

Telephone No. +41 22 338 89 70

The International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20, Switzerland

Facsimile No. +41 22 740 14 35

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

PCT

Translation

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Applicant's or agent's file reference

PC 04 234 M

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/EP2004/004864

International filing date (day/month/year)

07.05.2004

Priority date (day/month/year)

13.05.2003

International Patent Classification (IPC) or both national classification and IPC

Applicant

PETER OSYFKA STIFTUNG

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP

Authorized officer

Facsimile No.

Telephone No.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/004864

Box No. 1 Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This opinion has been established on the basis of a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
- a. type of material
- ☐ a sequence listing
- ☐ table(s) related to the sequence listing
- b. format of material
- ☐ in written format
- ☐ in computer readable form
- c. time of filing/furnishing
- ☐ contained in the international application as filed.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/004864

Box No. II

Priority

1. ☒ The following document has not yet been furnished:

☒ copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).

☐ translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/004864

Box No. V Reasoned statement under Rule 43bis 1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims <u>3</u>	YES
	Claims <u>1, 2, 4-7</u>	NO
Inventive step (IS)	Claims _____	YES
	Claims <u>1-7</u>	NO
Industrial applicability (IA)	Claims <u>1-7</u>	YES
	Claims _____	NO

2. Citations and explanations:

1. This report makes reference to the following documents cited in the search report; the same numbering will be used throughout the procedure:

D1: US-A-5 443 492 (MCVENES RICK D ET AL) 22 August 1995
(1995-08-22)

D2: US-A-5 246 014 (RYDEN STEN J ET AL) 21 September 1993
(1993-09-21)

2. Document D1 is considered the closest prior art for the subject matter of claim 1. It discloses (the reference signs between parentheses refer to this document):

A pacemaker electrode array (column 1, lines 7 to 10), with a pacemaker electrode (column 1, lines 13 to 14) which acts upon the outside of the heart (column 1, line 22) in the use position and extends to an implanted pacemaker (column 1, lines 16 to 19) and which has an electrode feed line (figure 5, part 16) and can be secured in the use position by an anchor (figure 5, part 18) from the direction of the outside of the heart, and

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/004864

Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

with at least one aid (slit in cannula, figure 5, part 46) serving to position the anchor, the aid being provided in the form of a puncture cannula and an insertion tube (figure 6) for this puncture cannula, and the internal cross section and anchor fits and can be displaced therein (column 6, lines 47 to 49).

Therefore, the subject matter of claim 1 is not novel (PCT Article 33(2)).

3. Dependent claims 2 to 7 do not appear to disclose any additional technical features which, in combination with the features of the claims to which they refer, meet the PCT requirements for novelty or inventive step (PCT Article 33(2) or (3)), because all these features are either already known from document D1 or document D2 or represent, to a person skilled in the art, an obvious solution to the respective problem (see Guidelines IV-8.8).

However, if an admissible independent claim 1 is submitted, the claims dependent thereon may also be admissible.